

Natbony Declaration Exhibit 2

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF PUERTO RICO
4 Case No. 17-BK-3283-LTS

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4 In re:
5 THE FINANCIAL OVERSIGHT AND MANAGEMENT
6 BOARD FOR PUERTO RICO,

7 as representative of

8 THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.

9 -----x

Case No. 17-BK-4780-LTS

10 -----x

In re:

11 THE FINANCIAL OVERSIGHT AND MANAGEMENT
12 BOARD FOR PUERTO RICO,
13 as representative of
14 THE PUERTO RICO ELECTRIC POWER AUTHORITY,
15 Debtor.

-----x

16 May 16, 2023

9:31 a.m.

17
18 VIDEOTAPED DEPOSITION of DAVID
19 BROWNSTEIN, held at the offices of Kramer
20 Levin Naftalis & Frankel LLP, located at 1177
21 Avenue of the Americas, New York, New York
22 10036, before Anthony Giarro, a Registered
23 Professional Reporter, a Certified Realtime
24 Reporter and a Notary Public of the State of
25 New York.

1 DAVID BROWNSTEIN

2 to answer on deliberative process
3 privilege.

4 MR. NATBONY: Well, then
5 have your conversation.

6 MR. MERVIS: Okay.

7 THE VIDEOGRAPHER: The time
8 is 3:17 p.m. And we're going off the
9 record.

10 (A short recess was taken.)

11 THE VIDEOGRAPHER: The time
12 is 3:20 p.m. And we're back on the
13 record.

14 MR. MERVIS: So, Bill, I had
15 given a prophylactic instruction
16 based on DPP concerns. And based on
17 consultation with the witness off the
18 record, in light of what I've learned
19 about the context of the
20 communications you were asking about,
21 I'm going to maintain the instruction
22 and ask the witness not to answer.

23 Q Let's change topics a little
24 bit back to the fuel line lenders.

25 Do you have any

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2 understanding as to what the role is of
3 the fuel line lenders in PREPA's current
4 day-to-day operations?

5 A They do not have one.

6 Q Did PREPA borrow any money,
7 to your knowledge, from the fuel line
8 lenders between 2015 and 2023? This is
9 after the initial fuel line credits.

10 MR. MERVIS: That's two
11 questions.

12 MR. NATBONY: I'll go back.

13 Q Do you know whether PREPA
14 borrowed any money from the fuel line
15 lenders in 2015 to 2023?

16 A You're using 2015 because of
17 what?

18 Q Because it's after the
19 initial fuel line credit agreements.

20 A So since they entered into
21 their credit agreements, you're asking
22 whether those were rolling loans to
23 PREPA? Absolutely, they were, as far as
24 I know.

25 Q No.

1 DAVID BROWNSTEIN

2 Do you know whether there
3 are any additional loans that were taken
4 out?

5 A I don't know, other than, of
6 course, the relending bonds, if you want
7 to call those loans.

8 Q Now, I think you said that
9 under the plan with respect to the fuel
10 line lenders and others, you said Series
11 A Bonds and Series B Bonds have the same
12 risks. Do you recall saying that?

13 A Yes, uh-huh.

14 Q So I just want to understand
15 and confirm.

16 Are you saying that a bond
17 series that's expected to pay off in 35
18 years has the same risk as a bond series
19 that is expected to pay off in five
20 years?

21 MS. SPILLANE: Object to the
22 form.

23 MR. MERVIS: Object to the
24 form.

25 A Okay. So first off, the

1 DAVID BROWNSTEIN

2 Series B Bonds have an expected maturity
3 of 22 years, just so you'll know; right?
4 They have a final maturity of 50. But
5 the projections show they'll pay off --
6 so in 22 or 35. So you're comparing it
7 anyway. That doesn't really matter.

8 What I am talking about is
9 the credit structure is the same on all
10 the bonds. And so none have more risk.
11 If you want to say duration risk is a
12 risk, sure, you could say that. I
13 believe that given the structure, which
14 you'll see tomorrow, that you will find
15 that there is -- I hope you will find --
16 well, let me leave it at that. I need to
17 just be careful.

18 Q Just to clarify then, when
19 you said that the risks were the same for
20 the Series A and Series B Bonds, you were
21 referring to the structure of the bonds?

22 A Correct.

23 Q You agree with me that not
24 knowing what's going to happen over 35
25 years is a different risk than not

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2 the customer and then use that to pay
3 debt service.

4 Q Under the current structure
5 as set forth in the plan, realizing that
6 it may change tomorrow, is an event of
7 default defined differently for Series A
8 and Series B Bonds?

9 A I don't recall.

10 Q Would you call the fuel line
11 lender of PREPA to be a legacy debt?

12 A What do you mean by the term
13 legacy? Can you define that for me?

14 Q For past services.

15 A Absolutely.

16 Q You wouldn't consider the
17 debt to be for current services?

18 A Well, the debt is in limbo
19 like all the other debt.

20 Q And PREPA has been able to
21 operate without paying down that debt;
22 isn't that true?

23 A PREPA has been able to
24 operate without paying any of its debt.

25 Q Including the debt to the

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2 fuel lines; right?

3 A Including the debt to the
4 fuel lines.

5 Q Now, in coming to a
6 settlement with the fuel line lenders,
7 there was an issue concerning whether the
8 fuel line lenders' debt were current
9 expenses under the trust agreement? I
10 don't know if you were nodding your head
11 yes or saying yes.

12 A I'm sorry. Can you say that
13 again?

14 Q In coming to a settlement
15 with the fuel line lenders, there was an
16 issue concerning whether the fuel line
17 lenders' debt was current expenses under
18 the trust agreement; correct?

19 A Well, what they have said is
20 that it is.

21 Q And does the board have a
22 position on whether it is?

23 MR. MERVIS: Objection to
24 the form.

25 A Well, we've been in

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2 priority. If the bondholders believed
3 they didn't have priority, I'm not quite
4 sure why they would have given that up.
5 So there are loads of questions. And I
6 don't have answers for it.

7 Q But, again, to the best of
8 your knowledge, this document, this
9 restructuring support agreement never
10 actually went forward; right?

11 MR. MERVIS: Object to the
12 form.

13 A What I can tell you is
14 clearly, it was signed. This is a
15 signature copy. So it was signed and I
16 suspect by the government as well. PREPA
17 signed it. So what my expectation is, is
18 that it was signed, that they probably --
19 well, when the board came in, the board
20 met with the creditors and said to each
21 creditor group, because we met with the
22 creditors and said we need to make some
23 slight modifications to the agreement.

24 Q You mean the trust
25 agreement?

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2 A No. To the RSA in order to
3 proceed with the deal. Hindsight's
4 20-20. They were very small. And then
5 we'd let this go forward. And if you
6 didn't agree, we would put them into
7 bankruptcy.

8 Q Do you have any knowledge as
9 to why the provisions about amending the
10 trust agreement concerning the definition
11 of current expenses was in this document?

12 A I don't.

13 MS. SPILLANE: Objection to
14 form.

15 MR. MERVIS: Objection.

16 A I just don't know. I mean
17 I've never really noticed it was in
18 there, although I mean it may have been
19 something between the fuel line lenders
20 and the bondholders as part of their
21 settlement with each other that, you
22 know, we don't have knowledge of.

23 Q Do you have an opinion as to
24 whether the fuel line lender loans result
25 in an expense or a debt?

C E R T I F I C A T I O N

I, ANTHONY GIARRO, a Shorthand Reporter
and a Notary Public, do hereby certify that
the foregoing witness, DAVID BROWNSTEIN, was
duly sworn on the date indicated, and that the
foregoing, to the best of my ability, is a
true and accurate transcription of my
stenographic notes.

I further certify that I am not employed
by nor related to any party to this action.



ANTHONY GIARRO